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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,207	11/26/2003	Jose Francisco Padilla Ruiz	HED-P0001	1206

36067 7590 09/29/2005

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EXAMINER

THAI, VANESSA K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. The following is a first Office action on the merits of 10/707,207

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Spain on December 9, 2002. It is noted, however, that applicant has not filed a certified copy of the U 200202952 application as required by 35 U.S.C. 119(b).

Specification

3. The disclosure is objected to because of the following informalities:
 - In paragraph 8, line 5, the word "is" should be "its".
 - Paragraphs 10 – 15 are duplicates of paragraphs 20 – 25, respectively.
 - Reference numeral "1" is designated "the nasal vestibulum dilating prosthesis" in paragraphs 27, 28, and 30, but is designated "the monoblock piece" in claim 1, thus it is unclear as to what reference "1" designates.
 - Reference numeral "10" is designated "the nasal valve" in paragraph 30, but is designated "the nasal pyramid" in claim 1, thus it is unclear as to what reference numeral "10" designates.
 - Reference numeral "10" is used to designate "the nasal valve" in paragraph 30, but reference numeral "11" is used to designate "the nasal valve" in claim 1, thus it is unclear as to which reference numeral designates "the nasal valve".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "the external surface" in line 6, "the nasal pyramid" in line 7, and "the internal zone" in line 9. There is insufficient antecedent basis for these limitations in the claim.

Furthermore, claim 1 recites the phrases "optionally fabricated using a metallic or plastic material produced in only one tapping operation" and "wherein a support may be attached". These phrases, which contain the words "optionally" and "may", respectively, render the claims indefinite because they do not clearly set forth the metes and bounds of the present invention.

Additionally, the limitation "a support" in claim 1 is not positively recited, therefore it is not given patentable weight.

Claim 3 recites the limitation "the lateral and posterior surfaces" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 and 103(a) that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodward ('581).

Woodward discloses in Figure 4, a nasal dilator comprising a monoblock piece having a central zone (1) and two curved configurations (in the vicinity below 1a) at each end, from where two protuberances (1b) project, and having concave ends (1d) and terminating in two semi annular zones (1e), which are capable of attaching to an adjustable elastic cord or a dorsal-cephalic attachment.

Conclusion

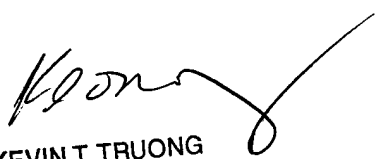
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanessa K. Thai whose telephone number is 571-272-5530. The examiner can normally be reached on M - F 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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vkt



KEVIN T. TRUONG
PRIMARY EXAMINER